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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,934	07/16/2003	Jeffrey C. Andle	0319US-Biode	8884
23521	7590	12/03/2004	EXAMINER	
SALTAMAR INNOVATIONS 30 FERN LANE SOUTH PORTLAND, ME 04106			BUDD, MARK OSBORNE	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,934

Applicant(s)

ANDLE, JEFFREY C.

Examiner

Mark Budd

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-24, 26, 29-32 and 35-41 is/are rejected.
- 7) ☒ Claim(s) 13, 25, 27, 28, 33, 34 and 42-51 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9, 12 and 17 are rejected under 35 U.S.C. 102(a) as being anticipated by Bulst.

Note Bulst col. 7, lines 4-42 and the figure which teaches a piezoelectric substrate, a reflective grating #100, #200, #300, an input transducer #53, an output transducer #54 interposed with the reflectors. The input/output transducers comprise 50 to 150 strips, the reflectors 400 to 700 strips thus the reflector length is at least 60% the electromechanically active area.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-8, 10, 11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bulst.

Bulst as noted above, teaches the basic SAW structure but does not explicitly teach some of the specific grating configurations and structures,. However, providing gratings as grooves or dielectric strips is well known per se (official notice taken). The weighting schemes are also known per se since it has long been held that optimization of a known device for a particular application is within the skill expected of the routineer,

selection from among the known grating materials and patterns would have been obvious to one of ordinary skill in the art.

Claims 18-24, 26, 29-32 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baer in view of Bulst.

Baer teaches a SAW device used as a sensor by allowing a wave to be exposed (thru a coupling layer) to an environment the damping or change being monitored to determine information about the environment. Baer does not explicitly teach the reflector grating covering at least 60 percent of the substrate which is electromechanically active. However, Bulst (as discussed above) does teach such structure is known. Optimization of a device for a particular application has long been held to be within the skill expected of the routineer. Thus to optimize Baer with the structures of Bulst would have been obvious to one of ordinary skill in the art.

Claims 13, 25, 27, 28, 33, 34 and 42-51 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Further cited of interest are Yuhara (col. 4, ln 53-68), Seki (col. 6 ln 43-67, Ballato and Hartmann.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark O. Budd whose telephone number is (571)272-2019. The examiner can normally be reached on Monday-Friday from 6am to 4pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R. Ramirez, can be reached on ***. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Budd/ds

11/19/04


PRIMARY EXAMINER
APT UNIT 2834